

TEXAS RACING COMMISSION

MEETING

10:30 a.m.  
Wednesday,  
October 13, 2021

John H. Reagan Building  
Room 120  
1400 Congress Avenue  
Austin, Texas 78701

COMMISSIONERS:

ROBERT C. PATE, Chair  
CONNIE McNABB, D.V.M., Vice Chair  
REBECCA CONTRERAS  
MARGARET MARTIN (absent)  
MICHAEL "MIKE" MOORE (absent)  
ARIEL "A.J." WAIGHT

EX OFFICIO MEMBERS:

SID MILLER, Texas Department of Agriculture  
STEVEN P. MACH, Public Safety Commission

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P R O C E E D I N G S

CHAIRMAN PATE: Good morning. At this time I'd like to call today's meeting of the Texas Racing Commission to order. The time is 10:30.

Robert, please call the roll.

MR. ELROD: Chairman Pate?

CHAIRMAN PATE: Here.

MR. ELROD: Commissioner McNabb?

COMMISSIONER McNABB: Here.

MR. ELROD: Commissioner Martin?

(No response.)

MR. ELROD: Commissioner Waight?

COMMISSIONER WAIGHT: Here.

MR. ELROD: Commissioner Moore?

(No response.)

MR. ELROD: Commissioner Contreras?

COMMISSIONER CONTRERAS: Here.

MR. ELROD: Commissioner Miller?

COMMISSIONER MILLER: Here.

MR. ELROD: Commissioner Mach?

COMMISSIONER MACH: Present.

CHAIRMAN PATE: Do we have quorum?

MR. ELROD: Yes, we do.

CHAIRMAN PATE: Great.

Just as an opening, I'd like to congratulate

1 the appointment of Commissioner Contreras to the Texas  
2 Racing Commission, and also congratulate Vice-Chair  
3 McNabb, as well as Commissioner Waight for their  
4 reappointment by the governor. We appreciate the work  
5 they're doing on behalf of the agency.

6 Also, happy to welcome today Agriculture  
7 Commissioner Sid Miller. His recent designee, of course,  
8 has been Commissioner Tim Kleinschmidt. And for some of  
9 y'all who may not know, Tim has had a particularly rough  
10 case of the COVID and is in recovery and hope to have him  
11 back with us soon. In any event, thank you for coming  
12 here, Commissioner Miller.

13 Commissioners, I would like to -- as you  
14 noticed, the General Counsel Devon Bijansky is not here  
15 today. The Texas Director of Enforcement Virginia Fields  
16 is going to be filling in for her, and the Attorney  
17 General's Office has sent two representatives to help  
18 guide us on two issues. We appreciate their assistance,  
19 and to allow them to get back to their offices, we're  
20 going to take those two items out of order.

21 The first item is item VII.D. Discussion and  
22 possible action to allocate interstate cross-species purse  
23 money under Commission Rule 303.102(d) for the period  
24 beginning March 1, 2020. Curley Trahan will present this  
25 item, and Assistant Attorney General Zach Rhines is

1 available to advise.

2 Curley, please proceed.

3 MR. TRAHAN: Thank you, Mr. Chairman. Good  
4 morning, commissioners. For the record, I am Curley  
5 Trahan, the director of Pari-Mutuels for the agency.

6 The Texas Racing Act requires horse racetracks  
7 to pay a purse in the amount of 5.5 percent of interstate  
8 cross-species handle to the Texas Greyhound Association  
9 for use at greyhound tracks in Texas. Under Section  
10 303.102 of the rules, the TGA must pay to the greyhound  
11 racetracks the purse money it collects pursuant to the act  
12 to Texas horse racetracks, less allowable administrative  
13 costs, in accordance with an allocation approved by the  
14 Commission. The TGA prepares and submits a proposed  
15 allocation for consideration by the Commission.

16 At the Commission meeting of December 1, 2020,  
17 the TGA requested, and the Commission subsequently  
18 approved, the allocation of escrowed purse funds to Valley  
19 Race Park through the end of their proposed 2021 live race  
20 meet. As you are aware, Valley Race Park did not run  
21 their live race meet as proposed, so we are here again  
22 today to address the issue of the allocation of these  
23 escrowed funds for the period beginning March 1, 2020.

24 In your meeting material, on page 91, you will  
25 find the agency's request from the TGA for its proposed

1 distribution of the cross-species simulcast purse funds  
2 collected by the TGA for the period March 1, 2020.  
3 Following on page 93 and 94 is a letter from the Law Firm  
4 of Dunnam & Dunnam, which is representing the TGA, setting  
5 out the paying of these funds to the 41 owners of Texas-  
6 bred greyhounds and the eight kennel owners that were  
7 contracted to participate in the last live race meet run  
8 in Texas, which was at Gulf Greyhound Park in 2020. The  
9 letter also indicated to staff that there will be no  
10 greyhound racing in Texas again, at least for the  
11 foreseeable future, yet there are live race dates granted  
12 by the Commission in both calendar years 2022 and 2023.

13 I believe there's an individual from Dunnam &  
14 Dunnam representing the TGA here today that's wishing to  
15 speak on this matter.

16 I'd be happy to answer any questions.

17 CHAIRMAN PATE: All right. Thank you, Curley.

18 MR. TRAHAN: Thank you, sir.

19 CHAIRMAN PATE: There are a number of people  
20 who have signed up to speak on this matter, and I just  
21 have some cards -- they'll need to be recognized for up to  
22 three minutes. Mr. Ray Campana.

23 MR. CAMPANA: Good afternoon, Mr. Chairman.  
24 I'm Ray Campana. I'm a TGA Greyhound Association Board  
25 member and a small breeder with the association.

1 I'm here today representing the members of my  
2 association that, due to the timing and circumstances,  
3 were unable to attend but desired for their concerns to be  
4 heard by you. I will be laying out the concerns in the  
5 following letter.

6 "Dear Chairman, We, some concerned Texas  
7 greyhound breeders, believe that there will be no further  
8 live greyhound racing in Texas. We also believe that the  
9 escrow funds must be released and distributed to the  
10 people most affected by the track closures.

11 "We disagree with the TGA Board that existing  
12 statute and rules can be applied that address the concerns  
13 with the ending of live racing in Texas. No rules or  
14 statutes were written 30 years ago foreseeing the end of  
15 live racing in Texas. We need to work for a fair and  
16 equitable distribution solution.

17 "The distribution plan the TGA board has put  
18 forth uses statute and rules that apply when racing is  
19 being conducted live. The rules assume the kennel has  
20 expenses and that is why it is waived, at least for them.

21 A kennel only incurs expenses when live racing is being  
22 conducted.

23 "The kennels were contracted by Gulf Greyhound  
24 Park for January and February 2020, and at that time their  
25 contracts ended. There have been no kennel owners in the



1 state of Texas at a greyhound track since that date. They  
2 have made no investment or incurred any such costs.

3 "While we here are greyhound breeders and  
4 owners who have made long term commitments and  
5 investments, incurring daily costs to support the racing  
6 in the state and the industry, they are the ones that  
7 believe they have been harmed the most and have been --  
8 need the most relief. Their plans and investment for 2021  
9 each started six months before the 2020 meet was  
10 conducted.

11 "We ask you to take three points into  
12 consideration when making a decision. First, current  
13 statute and rules only apply to live racing distribution  
14 of money. No statute or rule has been written to deal  
15 with the end of racing as to the distribution of the  
16 monies who have been most harmed and damaged by the  
17 closures of the tracks in Texas."

18 And I want to thank you at this time and I  
19 would appreciate it if you would consider these things  
20 I've laid out. I appreciate it. Thank you.

21 CHAIRMAN PATE: Thank you very much, Mr.  
22 Campana.

23 Next, Mr. Jim Dunnam will be recognized for  
24 three minutes.

25 MR. DUNNAM: Good morning, commissioners.

1           My involvement came when the OAG wrote a letter  
2 to TGA about these funds and they thought they should get  
3 some legal advice about statutory construction and those  
4 types of things. Kevin Vickers is with me. He is with  
5 the firm of Brady and Peavey here in Austin. He worked  
6 with me in the legislature and he's the smartest guy I  
7 know on this kind of stuff.

8           The fundamentals of the law on this and the  
9 policy determined by the legislature is that TGA is best  
10 suited to determine where these funds should go. The  
11 funds are set aside specifically to support greyhound  
12 racing in Texas, and that's what they want to do.

13          The Commission, as I understand it, got  
14 involved on the approval process in 2001 because there was  
15 a concern that there would be some kind of preference,  
16 this track versus that track. And if you look at the  
17 history behind the adoption of regulations, that's my  
18 understanding of why the Commission ever got involved; we  
19 didn't want to favor one track over another. My  
20 understanding is this proposal that's before you, the  
21 tracks support, so that's not an issue before you.

22          The historical allocation to fund future races  
23 is simply and was simply the option chosen by TGA. The  
24 statute doesn't say it has to go to future races or  
25 something of that nature. It was simply an allocation

1 that they made at the time.

2 It's not some permanent requirement. It's not  
3 some binding precedent, and the circumstances at the time  
4 during that period of time warranted that. It made sense.

5 The circumstances have changed. There's too  
6 many dollars sitting in the bank account of these folks,  
7 right? And it is not being used to support racetracks.

8 Y'all, or somebody, approved a race for this  
9 last August. Well, what are these folks supposed to do?  
10 They're supposed to breed dogs, raise dogs, train dogs,  
11 kennel dogs, take them to the vet, feed them, those types  
12 of things if you genuinely wanted that race to run, and  
13 these folks did it.

14 Now you're saying there's going to be a race  
15 next August, and then the August after that. There will  
16 be no race, except with some poorly fed greyhounds, unless  
17 these folks have the resources to support and continue  
18 investing in the industry. You're going to hear from some  
19 members, and it costs \$8,000 to get a dog ready in the 16  
20 months it takes to get a dog ready.

21 So the proposal is, that we have to recognize  
22 that if y'all are serious and we're going to have a race  
23 next August, these folks gotta do what they gotta do to be  
24 ready, too. It's not just a matter of the track being  
25 ready. But more importantly, the policy of the

1 legislature is, this is to support the greyhound industry  
2 in the State of Texas, and if we're going to be honest, we  
3 need to use these funds rather than just park them.

4 Now, if we get to March, April, whatever the  
5 time that it seems that, okay, we're actually going to  
6 have a race in August, then they can take the funds going  
7 forward from that time and allocate them to that purse.  
8 We have the flexibility and discretion to do that.

9 I want to say that me and Mr. Vickers have  
10 talked extensively with Mr. Rhines from the OAG, had very,  
11 very good conversations. And obviously he can go speak  
12 for himself, but I just want to say we had very good  
13 professional conversations about options here.

14 I do want to leave with you a letter of June 18  
15 of this summer that we provided to Mr. Rhines, but we also  
16 sent it to the Commission and asked that staff include it  
17 in your packet. And it's an extensive letter talking  
18 about the law and why the law and regulations support the  
19 allocation.

20 The last thing I would conclude with is, we  
21 need the Commission to say we're going to hold these funds  
22 forever or we need to distribute them. And if there's  
23 something about the technical aspects of the distribution  
24 that somebody has an issue with -- well, just like the  
25 last gentleman, he has some issue with, well, maybe we

1       ought to allocate it. He's not saying hold it forever, as  
2       I understand it -- then okay, you can vote to direct staff  
3       to actually work with the Commission to achieve that end  
4       rather than just kick it down, we're going to hold the  
5       money and we may or may not have a race in the future.

6               CHAIRMAN PATE: Thank you for your comments,  
7       Mr. Dunnam.

8               MR. DUNNAM: I'm here for any questions you may  
9       have.

10              CHAIRMAN PATE: Thank you, sir.

11              MR. DUNNAM: Thank you.

12              CHAIRMAN PATE: Next up, Kenneth Turner, I  
13       believe, will be recognized for three minutes.

14              MR. TURNER: Hello. My name is Kenneth Turner  
15       and I'm a greyhound breeder, owner, and kennel operator.  
16       I'm here to tell you that we're going broke.

17              We've got no racing. We were supposed to have  
18       racing in August; it got canceled. It takes me from the  
19       time I have a female bred to get a dog ready to go to the  
20       track and race takes 20 months, approximately.

21              And so back in late 2019, I bred dogs to have  
22       for the 2021 meet. Twenty-five dogs on my farm and at  
23       approximately \$4,000 a dog, no racing. I can't send these  
24       dogs to other states and race because there's only four  
25       tracks and those tracks are full. The kennels say we're

1 not taking your dogs because we've got our own dogs.

2 So here I'm sitting with these dogs that's  
3 going to go to adoption. And now if I breed for next year  
4 and there's no racing, I'm out that same amount of money  
5 again. In 2023, I'm out that same amount of money again.

6 So when does it come that I have to say I can't  
7 do this anymore? That's why I'm asking for the release of  
8 these funds to help us keep mobility here because, I mean,  
9 it's a sad situation.

10 The TGA had told Devon -- we had several  
11 conversations with her back from since March, and we told  
12 her we didn't feel the Valley was going to run those  
13 dates. And she said, Well, we can't do anything until we  
14 know that the Valley isn't going to run those dates. Now  
15 we know.

16 The Valley moved their dates to 2023 and the  
17 Commission approved it, but no one on the Commission gave  
18 the TGA a letter stating that they anticipated this to  
19 happen, to come talk to us. We didn't know about it, so  
20 what are we supposed to do?

21 Any questions?

22 CHAIRMAN PATE: Thank you, Mr. Turner.

23 Next Peter, I believe it's Limmer, will be  
24 recognized for three minutes.

25 MR. LIMMER: Good morning. This is Peter

1 Limmer, former kennel owner and breeder and kennel owner.

2 I have about 50 dogs on the farm and we bred  
3 extra because they wanted to up the percentage at the  
4 track to 40 percent Texas-bred out of the 60 crates. So  
5 I'm in the same area, I have 50 dogs and no place to run  
6 them. They'll probably all be adopted out because they  
7 won't be old enough for next meet, when they run.

8 So I was all prepared to run. That's pretty  
9 much -- if there's any questions, that's about it. Short  
10 and simple.

11 CHAIRMAN PATE: Thank you, sir.

12 And the last card is have is for Kevin Vickers.

13 MR. VICKERS: Good morning. I'm here with Jim  
14 Dunnam, as he said, on behalf of TGA.

15 I don't really have a lot to add to what's been  
16 said. I think you know that the breeders and the kennel  
17 owners in the state are hurting and that this is a pot of  
18 money that can be used to help keep them on life support.

19 I think that if you have any questions in particular  
20 about the statute, that's where I might be able to be  
21 helpful.

22 I've been an attorney for ten years. Before  
23 that, I worked on the legislature for five years, drafting  
24 statutes left and right. I've looked very closely at this  
25 one and it does allow the flexibility for the allocation

1 to be either for purse funds for future races, like has  
2 typically been done in the past, or for purse funds for  
3 past races, like it's being proposed today before you.

4 So with that said, any questions, and if not,  
5 I'm going to hand out the detailed legal memo that Jim  
6 referenced that he forgot to give the staff to review.

7 COMMISSIONER CONTRERAS: Mr. Chairman, I do  
8 have one question, just a technical question.

9 CHAIRMAN PATE: Go ahead.

10 COMMISSIONER CONTRERAS: How many racing -- how  
11 many individuals do you represent that are in this  
12 situation?

13 MR. VICKERS: Well, the Greyhound Association  
14 has a host of members, and honestly, I don't know how  
15 many. The board is composed of seven members that are  
16 elected from the membership.

17 The board has voted for this allocation under  
18 their by-laws. So essentially the mandate of the TGA is  
19 to represent the interests of breeders and kennel owners  
20 in Texas.

21 COMMISSIONER CONTRERAS: So this is large  
22 scale, not just two individuals here today.

23 MR. VICKERS: Oh, no. Those two gentlemen are  
24 just two members of the many that constitute the TGA.

25 COMMISSIONER CONTRERAS: Thank you.



1 COMMISSIONER MILLER: Mr. Chairman?

2 CHAIRMAN PATE: Go ahead.

3 COMMISSIONER MILLER: Mr. Vickers, I don't want  
4 to assume anything, we quit racing because of the COVID  
5 situation? Is that what shut the tracks down, or was it  
6 something different?

7 MR. VICKERS: It's my understanding that COVID  
8 was the straw on the camel's back, but that there are  
9 fundamental -- and I must caveat this with I am a  
10 statutory construction lawyer, you know, I'm not super  
11 detailed in the ways of racing issues. But it's my  
12 understanding from the conversations I've had with TGA  
13 Board members that there are a host of issues that have  
14 led to the decline of racing in the state and not just  
15 COVID.

16 COMMISSIONER MILLER: Mr. Chairman, can we  
17 recall the first kennel owner? I have a question for him.

18 CHAIRMAN PATE: We can do that in just a  
19 second.

20 Let me ask another question of this attorney  
21 right here. I want to make sure I understand exactly what  
22 the issue is that's being set up here. There's an  
23 allocation that's proposed based on past racing results,  
24 and the dispute is whether or not the statute allows the  
25 allocation of those monies to those past winners, whatever

1 this amount of money is in this pot, or whether it must be  
2 reserved and allocated for future races. Isn't that  
3 correct?

4 MR. VICKERS: That's correct, although you say  
5 the dispute, and I'll say it's not clear to me that there  
6 is any longer a dispute. It is clear to me that in March  
7 of 2020, Texas Greyhound Association was contacted by the  
8 OAG's Office representing the Racing Commission at the  
9 direction of the Racing Commission staff, I believe,  
10 taking the position that the funds needed to be allocated  
11 for winners of future races.

12 Now, since that time, as Jim referenced, we've  
13 had several conversations with Mr. Rhines, who is here,  
14 and he can speak to that, to their view of the law  
15 currently. But in terms of the stakeholders, I don't  
16 think you heard anybody today that -- and as I heard, I'm  
17 the last person on this agenda item -- that is opposed to  
18 the allocation based on the results based on participation  
19 in the March 2020 meet, the last meet.

20 So I'm not sure if it's still a dispute, but  
21 yes, that is essentially a potential issue.

22 COMMISSIONER McNABB: I have a question.

23 CHAIRMAN PATE: Go ahead.

24 COMMISSIONER McNABB: If indeed a distribution  
25 is made, you're saying that it's based upon past winnings.

1 But the argument that I've heard from the owners and  
2 breeders is if indeed greyhound is going to have a pool of  
3 dogs for the future, it's to help support those who are  
4 breeding and racing dogs. That's not necessarily limited  
5 to the people who won purses.

6 So how are we going to help the industry stay  
7 afloat, as opposed to those who had the good fortune and  
8 the good dogs to just be the winners of purses?

9 MR. VICKERS: Yes, and forgive me, to be more  
10 clear -- and it's in your agenda packet at 93 -- the  
11 proposed allocation is for participants in the last meet.

12 So there's 41 owners of Texas-bred dogs and eight kennel  
13 owners that participated.

14 Now, there would need to be a subdivision -- to  
15 do a fair allocation among that, it would likely be along  
16 purse win lines, although not necessarily. It could be a  
17 pro rata distribution.

18 In any event, those folks that participated in  
19 the last meet, the view of the TGA Board is that -- the  
20 majority of the board -- is that those are the folks that  
21 are the core of the Texas greyhound industry now, and it's  
22 impossible to say whether some person who's never heard of  
23 a greyhound before wakes up tomorrow and says, hey, I want  
24 to be a greyhound breeder -- whether they'll get involved.

25 So we can't really address that, but we can

1 support those who have participated most recently in the  
2 industry.

3 COMMISSIONER McNABB: But some proportionality  
4 on those who are there who have a history of supporting  
5 the industry by being active breeders, trainers and  
6 participants in racing.

7 MR. VICKERS: Right, ran in the most recent  
8 race.

9 COMMISSIONER McNABB: So if the objective is to  
10 have a pool of fit racing animals as opposed to just  
11 linking it to those who were purse-winners.

12 MR. VICKERS: Yes, and again, this would be --  
13 the proposed allocation is for participants in, so exactly  
14 the subdivision remains to be determined. And if it makes  
15 sense to direct Commission staff to, you know, iron out an  
16 XYZ share distribution, I think that would be more than  
17 acceptable.

18 The real fear is just holding this money in  
19 perpetuity and the life support not being there -- the  
20 life support that's needed not being there.

21 COMMISSIONER McNABB: Understood.

22 MR. VICKERS: And one other --

23 CHAIRMAN PATE: So let me ask you this, Mr.  
24 Vickers, we continue to have track owners who are  
25 licensed, correct?

1 MR. VICKERS: Yes, that's my understanding.

2 CHAIRMAN PATE: So I mean, are we to presume  
3 there are never going to be future races?

4 MR. VICKERS: Well, I think that factually, you  
5 know, there's a lot of evidence for that. I mean, again,  
6 I'm not a racing expert, but the example is the most  
7 recent race dates that were set for August 2021 that  
8 didn't occur.

9 And to a point that Mr. Dunnam made earlier, if  
10 there is, in fact, a race in the future, this allocation  
11 isn't for all time. Additional cross-species --  
12 additional funds from cross-species interstate simulcast  
13 wagering that occurs at Texas horse tracks will come in.  
14 And so, you know, to the extent that greyhound racing does  
15 actually occur in the future, there will be another  
16 allocation opportunity and this Commission will have it  
17 before them in the future and they'll say, okay, now we  
18 know racing is back.

19 That would be great. I mean, that's kind of  
20 what we're actually really hoping will happen here. And  
21 we can keep today's breeders that most recently  
22 participated in the industry and kennel owners around  
23 still willing to participate so that there will be a  
24 future race. And then if it actually does come back, you  
25 know, then the allocation of those additional monies that

1       come in from cross-species interstate simulcast will be  
2       allocated for future races.

3               CHAIRMAN PATE: All right.

4               Are there any further questions of this  
5       speaker?

6               COMMISSIONER MACH: But otherwise, this money  
7       would just roll to the next race date, right?

8               MR. VICKERS: Well, if the TGA makes this  
9       proposal. The statute and the rule require the TGA to  
10      make that proposal. The statute language is, the monies  
11      go to the official state greyhound registry -- that's  
12      TGA -- for use at racetracks in the state.

13              That's all the statute says. It doesn't  
14      actually say that the Commission has a role in how it's  
15      distributed. However, in 2001, the agency, TRC, adopted a  
16      regulation that said that the Commission makes an approval  
17      of the allocation that TGA proposes.

18              So if you guys don't approve something today,  
19      or at least direct staff to help get the ball done -- get  
20      the ball in the hoop, what I suspect as a practical matter  
21      will happen is, there will be another proposal, I guess,  
22      to roll it in perpetuity forever and ever. Maybe someday  
23      they actually will race, fingers crossed.

24              Does that answer your question?

25              COMMISSIONER MACH: Thank you.

1 CHAIRMAN PATE: Are there any other questions  
2 of this particular speaker?

3 COMMISSIONER CONTRERAS: I just have one  
4 question, Chairman.

5 And I've read all the materials and this is my  
6 first Commission meeting, so forgive me for my ignorance,  
7 but I'm trying to understand. The power lies within TGA  
8 to make the proposal, and it's the Racing Commission's job  
9 to say yes, we agree or we don't agree, right?

10 So the statute that you mentioned gives the  
11 power to you to decide how funds are disbursed, and us to  
12 vote the funds move forward into disbursement, right?

13 MR. VICKERS: Yeah, a minor nitpicky thing,  
14 it's your regulation that gives you the approval ability.

15 COMMISSIONER CONTRERAS: The regulation, right.

16 MR. VICKERS: But yes.

17 COMMISSIONER CONTRERAS: And it's also my  
18 understanding that the tracks are not running because  
19 they're not in the condition to run the dogs.

20 MR. VICKERS: That is my understanding, as  
21 well.

22 COMMISSIONER CONTRERAS: They were let go in  
23 the last 12, 14 months, 18 months, whatever, because of  
24 COVID. Is that right?

25 MR. VICKERS: It's my understanding, again,

1 it's not just COVID. It's bigger systemic issues.

2 COMMISSIONER CONTRERAS: But they're not in a  
3 condition to run the dogs.

4 MR. VICKERS: But yes, the condition of the  
5 tracks is not at all --

6 COMMISSIONER CONTRERAS: And who's responsible  
7 for keeping the tracks in good condition?

8 MR. VICKERS: To my knowledge, it would be the  
9 racing association, but that's beyond my purview.

10 COMMISSIONER CONTRERAS: Thank you.

11 CHAIRMAN PATE: All right. Any other questions  
12 for this speaker?

13 And if not, who would you like to hear from  
14 again, Commissioner Miller?

15 COMMISSIONER MILLER: The first kennel owner  
16 that came up and testified.

17 CHAIRMAN PATE: Mr. Campana [sic]?

18 COMMISSIONER MILLER: Yeah.

19 CHAIRMAN PATE: Thank you.

20 MR. TURNER: Yes, sir?

21 COMMISSIONER MILLER: Can you help walk us  
22 through this why we quit running dogs and why we're not  
23 running them today?

24 MR. TURNER: Well, Gulf Greyhound Park was the  
25 track that all three tracks ran at that one facility, and



1 when COVID shut the state down -- which was March of  
2 2020 -- Gulf had dates scheduled for late that year. They  
3 usually ran the end of December, January and February.

4 And when the state opened back up in June, the  
5 Commission notified the tracks that they wanted a certain  
6 amount of fee for that period of time that they were shut  
7 down, and Gulf just said, We're not making no money.  
8 We're done.

9 Well, then when that happened, that left the  
10 Valley and Corpus. Pretty much those were the only two  
11 facilities left, and for whatever reason -- I think that  
12 the Valley said there wasn't dogs, but there were dogs but  
13 you don't know until you say we've got racing what dogs  
14 I'm going to come up with, because then I have to start  
15 making calls and lining up my kennel and such. And so  
16 that never happened.

17 But for like me, because the Racing Commission  
18 rules state that there has to be so many dogs that are  
19 Texas-bred in that kennel, I have to breed my own dogs to  
20 make that qualification, because if I don't, then I don't  
21 qualify as a kennel. I either lose starts or I get  
22 suspended.

23 And it's just kind of like horse races, you  
24 never know how fast the dog is going to be. You know, you  
25 may race 25 to get 10 that are eligible to run. I mean,

1     that's just the way it is.

2                   And so when you're doing those kind of numbers  
3     and then there's no racing, where do you go? I mean, if  
4     there isn't enough dogs now, why would there be more next  
5     year or the year after? Because breeders have stopped,  
6     they can't -- no money coming in, they can't send their  
7     dogs elsewhere, so I mean --

8                   COMMISSIONER MILLER: So what your association  
9     is saying is, you would like the money that would have  
10    been disbursed in purses to go ahead and be disbursed to  
11    those eight kennel owners and the 41 dog owners?

12                  MR. TURNER: Yes.

13                  COMMISSIONER MILLER: Use some formula and  
14    figure out proportionally how that would work.

15                  MR. TURNER: Yes, we would have to sit down --

16                  COMMISSIONER MILLER: And that would just help  
17    get you through the pandemic relief to keep you alive --

18                  MR. TURNER: And then once, like I say, if the  
19    Commission was to decide, all right, on October 31, we're  
20    going to permit that money to be released and we want a  
21    formula from the TGA to how it's going to be disbursed,  
22    then that money would be escrowed again starting at that  
23    point for the next year.

24                  COMMISSIONER MILLER: Perpetual fund.

25                  MR. TURNER: Yes, in statute if it keeps doing

1 that way, it goes from like March 1 to March 1.

2 COMMISSIONER MILLER: Okay. I think you  
3 cleared it up for me. Thank you.

4 CHAIRMAN PATE: Any other questions for this  
5 speaker?

6 (No response.)

7 CHAIRMAN PATE: Commissioners, I've made  
8 arrangements to have Attorney General Zach Rhines here and  
9 we can go into executive session and get advice from the  
10 Attorney General's Office on this statutory  
11 interpretation.

12 So the Commission will now enter into executive  
13 session under Texas Government Code Section 551.074(a)(1)  
14 to deliberate the appointment, employment, evaluation and  
15 reassignment of duties, discipline or dismissal of a  
16 public officer or employee, and under Section 5510.071(2)  
17 to discuss all matters identified in this agenda where the  
18 Commission seeks the advice of its attorney as privileged  
19 communications under the Texas Disciplinary Rules of  
20 Professional Conduct of the State Bar of Texas. Zach  
21 Rhines and Drew Harris from the Attorney General's Office  
22 will join us.

23 The time is now eleven o'clock.

24 (Whereupon, at 11:00 a.m., the meeting was  
25 recessed, to reconvene this same day, Wednesday, October

1 13, 2021, following conclusion of the executive session.)

2 CHAIRMAN PATE: The Commission is now  
3 reconvening after concluding its executive session under  
4 Texas Government Code Sections 551.074(a)(1) and  
5 551.071(2). The time is now 11:36 a.m. We have made no  
6 decisions while in executive session.

7 Returning to item VII.D., I would entertain a  
8 motion regarding the TGA's request to allocate the  
9 interstate cross-species purse money under Commission Rule  
10 303.102(b) for the period beginning March 1, 2020.

11 COMMISSIONER MILLER: Mr. Chairman.

12 CHAIRMAN PATE: Yes, sir.

13 COMMISSIONER MILLER: In light that we're here  
14 to support the industry, I would like to see a detailed  
15 proposal from the Greyhound Association as to total  
16 amount, what individuals, how much, what entities, and to  
17 bring that before the Commission.

18 So therefore, I move that we request detailed  
19 information from the Texas Greyhound Association on  
20 disbursement of the funds.

21 CHAIRMAN PATE: Is there a second?

22 COMMISSIONER McNABB: I'll second.

23 CHAIRMAN PATE: All right. There's been a  
24 motion made and seconded. Is there any further  
25 discussion?

1 COMMISSIONER MACH: I have a question.

2 CHAIRMAN PATE: Go ahead.

3 COMMISSIONER MACH: This is not a determination  
4 as to whether or not we will approve the request. We are  
5 essentially tabling the request for future consideration  
6 once we have a proposal?

7 CHAIRMAN PATE: I would consider this as a  
8 motion to table pending further information. That's  
9 correct.

10 Is there any further discussion?

11 (No response.)

12 CHAIRMAN PATE: Hearing none, all those in  
13 favor of the motion signify by saying aye.

14 (A chorus of ayes.)

15 CHAIRMAN PATE: Any opposed?

16 (No response.)

17 CHAIRMAN PATE: All right. The motion passes.

18 COMMISSIONER MILLER: Mr. Chairman, just a  
19 clarification for the record. It's not a motion to table,  
20 it's a motion to postpone further action.

21 CHAIRMAN PATE: All right. And the chair does  
22 intend to instruct the general counsel of the Texas Racing  
23 Commission to make an inquiry and ask for an opinion from  
24 the Texas Attorney General concerning the proper  
25 interpretation of this particular statute.

1 All right. We now move to public comment,  
2 going back to the agenda, item number II. Has there  
3 anybody signed up for public comment?

4 MR. ELROD: No, sir.

5 CHAIRMAN PATE: All right. Moving on to  
6 General Business, section III.A.1. Executive Director's  
7 report, Connie Estes, please give us the report.

8 MS. ESTES: Good morning, Mr. Chairman and  
9 Commissioners. For the record, I am Connie Estes, interim  
10 executive director of the Texas Racing Commission. It is  
11 my pleasure to be here today in person and report on some  
12 of the more recent activities of our agency staff.

13 On September 16, a new hair testing policy was  
14 established with the assistance of the Enforcement staff,  
15 including Virginia Fields, director of Enforcement, Jim  
16 Blodgett, director of Investigations, our two state  
17 veterinarians, Dr. Vaughn and Dr. Freeman, Dr. Travis Mays  
18 from TVMDL, and Chief Steward Ricky Walker.

19 Although administration of prohibited  
20 substances are detected for a relatively short time in  
21 blood and urine, detection in hair not only determines the  
22 administration of prohibited substances, such testing  
23 expands the analytical range of administration and use.  
24 Hair testing complements blood and urine testing but is  
25 not meant to replace it.

1           Blood and urine testing detect prohibited  
2 substances administered in horses days, hours or weeks  
3 prior to sampling. Hair testing detects prohibited  
4 substances administered weeks to months prior to sampling.

5           Although there may be a little overlap in time  
6 intervals, blood and urine and hair testing, hair testing  
7 has been utilized by many jurisdictions to combat illicit  
8 use of prohibited substances. The amount of time a drug  
9 can be detected in hair depends on the length of the hair  
10 being tested. In most cases, laboratories evaluate hair  
11 over a period of five to six months.

12           Unlike urine and blood where regulated  
13 substances continue to be eliminated over time, once the  
14 prohibited substance incorporates into the hair's matrix,  
15 the prohibited substance remains present, unchanged and  
16 detectable in testing.

17           The policy was disseminated on the Texas Racing  
18 Commission website, Facebook page and printed copies were  
19 sent to Lone Star Park for distribution throughout the  
20 park. Lone Star is currently racing now through December.

21           Their 30-day Quarter Horse meet started on September 17  
22 and will end on December 18.

23           After posting the notice on the Facebook page,  
24 the agency surpassed more than 2,000 reached for the first  
25 time since the agency's Facebook page was started to

1 communicate to the public. The policy went into effect  
2 yesterday, October 12, and the industry was given a  
3 21-days notice of the policy. The hair testing notice  
4 will also be included in all of the racetracks' 2022  
5 condition books.

6 On October 6, Dr. McNabb, TxRC staff, Retama  
7 management personnel and industry representatives  
8 performed a safety inspection of Retama Park. As you may  
9 recall, Retama was hard hit by this year's winter storm  
10 and was not able to run their scheduled summer race meet  
11 due to delays and extensive repairs needed caused by  
12 insurance problems.

13 Retama continues to repair the stalls and the  
14 stable area. Retama anticipates opening in December as a  
15 training facility, which will allow horsemen to receive  
16 official work without having to leave the state once Lone  
17 Star's race meet ends.

18 At the beginning of this month, the Austin  
19 headquarters office returned to normal office hours, 8:00  
20 a.m. to 5:00 p.m. Individuals are now able to apply for a  
21 Texas Racing Commission license, submit fingerprints in  
22 our Austin office during normal business hours.

23 The last issue of this agency staff update, and  
24 perhaps the most important, is the agency's main office  
25 move. We are transitioning downtown to the George H. Bush



1 Building, which is still under construction in the Capitol  
2 Complex. Although this move was originally scheduled for  
3 May of next year and our current lease expires in May, it  
4 is estimated that our space in the new building will not  
5 be available until sometime after the current building  
6 lease expires.

7 Extending the current lease is not possible,  
8 according to building management. So we're gearing up for  
9 two transitions, first to a temporary space and then to  
10 the Bush Building once it becomes available for occupancy.

11 The Texas Facilities Commission has been extremely  
12 helpful in keeping us informed.

13 We are close to completing the transition of  
14 our database and other services to the cloud to simplify  
15 these moves. Prior to joining our staff, the new IT  
16 director, Caesar Delao, was with the Texas Facilities  
17 Commission. Caesar is proving to be invaluable in  
18 developing the technical aspects of this move. Agency's  
19 managers are having biweekly meetings to communicate  
20 transition issues as well as ensuring the agency's  
21 readiness for these moves.

22 These are the highlights from the agency's  
23 staff activities. I have also placed copies of thank you  
24 cards received from 4-H students showing their  
25 appreciation for the scholarships they received as part of

1 the HIEA funding from the TQHA.

2 As always, I appreciate your time,  
3 commissioners. This concludes the executive staff report  
4 and I'm happy to answer any questions the commissioners  
5 may have.

6 Thank you.

7 CHAIRMAN PATE: Thank you, Connie.

8 Are there any questions?

9 COMMISSIONER McNABB: I just have a footnote on  
10 the hair testing policy, and we covered this in depth at  
11 the Medication Safety Committee. The protocol that we use  
12 with our lab, and this is the standard protocol nationwide  
13 in the horse industry, is that when a sample is pulled it  
14 includes the hair follicle so that gives you a day zero.  
15 And then as you are trying to extrapolate a time frame, if  
16 indeed a positive is found, that gives you a baseline,  
17 rather than just taking a piece of hair anywhere from a  
18 tail and trying to extrapolate some information.

19 So when we do our samples, they include the  
20 follicle, that's day one. And then we follow the standard  
21 protocol for the lab, and again, we follow the national  
22 standard.

23 Thank you.

24 CHAIRMAN PATE: Thank you, Commissioner McNabb.

25 COMMISSIONER CONTRERAS: Can I ask a clarifying

1 question of Commissioner McNabb?

2 In terms of a new policy, obviously the  
3 education piece for the constituency, the community is  
4 huge. I'm assuming there's a plan in place to do kind of  
5 first base education, second base education, and then  
6 maybe a pulse around the understanding of the change?

7 COMMISSIONER McNABB: The education process has  
8 been going on; we have been addressing this. This is  
9 actually -- surrounding states are incrementally ahead of  
10 us, so this is a process. But this also brings Texas  
11 racing on par with the states that the vast majority of  
12 our constituency cross-compete in that pool of race  
13 horses, so it's a standard procedure.

14 COMMISSIONER CONTRERAS: Awesome.

15 CHAIRMAN PATE: And III. General Business,  
16 III.A.2., a report on the Horseracing Integrity and Safety  
17 Act.

18 Connie Estes, give us your report on this  
19 important topic.

20 MS. ESTES: On September 23, Commissioners  
21 Kleinschmidt and Mach, along with several TxRC staff,  
22 attended a Zoom meeting with representatives from the new  
23 HISA, Horseracing Integrity and Safety Act organization, a  
24 representative of the agency currently posed to enforce  
25 the Act's medication control program, USADA, the United

1 States Anti-Doping Authority. Also in attendance were  
2 staff from the West Virginia Racing Commission.

3 This meeting was primarily to update us on the  
4 status of the Act and the upcoming proposed rules and  
5 implementation of the law effective July 1 of 2022. HISA  
6 was enacted December 27 of 2020 and will regulate and  
7 enforce the Thoroughbred Horseracing Anti-Doping  
8 Medication Control Program and Racetrack Safety Program.

9 Subject to oversight by the Federal Trade  
10 Commission, the FTC, the HISA will exercise independent  
11 exclusive national authority over anti-doping, medication  
12 control, and racetrack safety matters for all Thoroughbred  
13 racing and training in the U.S.

14 There are still many questions that need to be  
15 addressed, including state funding mechanisms, cost of  
16 personnel on the ground, who will be required to pay those  
17 costs, and how the authority, USADA and the FTC will  
18 implement the proposed rules, enforce drug testing for  
19 prohibited substances in racing, just to mention a few.  
20 Proposed rules are to be available no later than the end  
21 of December, and the allocated costs of HISA to the agency  
22 will be available no later than April 1 of 2022.

23 We welcome your questions and written comments  
24 regarding this possible huge change to the way of business  
25 as we know it. One of the biggest changes being, the

1 Racing Commission will no longer handle any Thoroughbred  
2 positives from start to finish. At this time, as we  
3 understand it, the jurisdiction may not even be notified  
4 if there is a positive call.

5 The hearing for a medication positive would be  
6 under the control of administrative judges or an appointed  
7 board of stewards, and any appeal would go to the FTC.  
8 For those jurisdictions who have other breeds, such as  
9 Quarter Horses, they will continue to handle business as  
10 usual, including all aspects of any horse positive for  
11 those breeds.

12 So this is just one example of the huge changes  
13 coming. This will not only impact our operations, it will  
14 impact those licensees with a Thoroughbred positive that  
15 will now be subject to a completely different adjudication  
16 procedure.

17 Thank you, commissioners.

18 CHAIRMAN PATE: Thank you, Connie.

19 There's going to be questions coming up as we  
20 go, but that's the report. Does anybody have any  
21 questions?

22 (No response.)

23 CHAIRMAN PATE: All right. Next is item  
24 III.A.3. Budget and Finance. Curley Trahan, director of  
25 Pari-Mutuels, will give us the budget and finance update

1 today, as well as the next two reports on the Horse  
2 Industry Escrow Account and wagering statistics.

3 Go ahead, Curley.

4 MR. TRAHAN: Thank you. Good morning again,  
5 commissioners.

6 On pages 5 through 9 of your agenda packet is  
7 the agency's fiscal year 2021 operating budget, showing  
8 the revenue collected and expenditures as of the end of  
9 August 2021. With 100 percent of the year completed, the  
10 agency collected approximately \$7.56 million, or 89.5  
11 percent of projected revenue, including ATB funds, and  
12 expended \$6.62 million, or 86.2 percent of budgeted  
13 expenditures.

14 As of the end of July, the Commission had a  
15 cash balance of \$944,982. We estimate this balance will  
16 be approximately \$700- to \$750,000, once all fiscal year  
17 '21 expenditures are accounted for. This is within the  
18 allowable range for agency reserves and these funds will  
19 be carried forward into fiscal year 2022.

20 I'd be happy to answer any questions.

21 CHAIRMAN PATE: Any questions?

22 (No response.)

23 MR. TRAHAN: Commissioners, on page 10 of the  
24 meeting materials, you will find a summary of accounting  
25 of the Horse Industry Escrow Account for fiscal year 2021.

1       This report reflects only the 30 percent portion of the  
2       HIEA designated for events furthering the horse industry,  
3       as the 70 percent portion designated for purses is paid  
4       out to the racetracks each month.

5               The HIEA account received the full \$25 million  
6       of Ag Tax deposits from the Comptroller's Office, and  
7       \$186,930 from the greyhound tracks in cross-species escrow  
8       funds for fiscal year '21. Of these amounts, \$7,560,312  
9       was apportioned to the breed registries for events  
10      furthering the horse industry. The balance in the account  
11      stands at \$1,258,184.52.

12             Included in this balance is \$488,707 in  
13      approved event funds that have not yet been disbursed.  
14      After these deductions, the balance remaining will be  
15      \$769,477.52. We anticipate that these unused funds will  
16      be carried forward into fiscal year 2022 and be available  
17      for approved events.

18             For fiscal year '21, the approved event funding  
19      for each of the four breed registries was allotted as  
20      follows: Texas Arabian Breeders Association, 5.66  
21      percent; Texas Paint Horse Breeders Association, 8.42  
22      percent; Texas Quarter Horse Association, 43.17 percent;  
23      and Texas Thoroughbred Association, 42.75 percent.

24             This concludes my report of the HIEA account.  
25      I'm happy to answer any questions.

1 CHAIRMAN PATE: Thank you, Curley.

2 MR. TRAHAN: Commissioners, my next report  
3 covers the wagering statistics.

4 In your meeting materials on pages 11 through  
5 13 is the comparison report on wagering statistics for the  
6 period of January through August of 2021 versus the same  
7 period in 2020. The report shows that total wagering  
8 activities at the greyhound racetracks decreased by 40.11  
9 percent, equating to reduced handle of approximately \$4.89  
10 million. Total wagering activities for horse racetracks  
11 showed an increase of 41.58 percent for the period as  
12 compared to 2020. This increase represents approximately  
13 \$102.73 million in added handle.

14 Overall, the report shows that total wagers  
15 placed in Texas increased by approximately 57.99 percent,  
16 representing a 51.28 percent increase from the previous  
17 year, while total wagers placed on Texas races showed an  
18 increase of just over \$51.25 million, or 33.14 percent.  
19 Keep in mind that these numbers are somewhat skewed due to  
20 the racetrack closings and occupancy levels last year  
21 caused by restrictions put in place due to COVID-19 and a  
22 subsequent shift in race dates by the Texas tracks.

23 This completes my report, and I'm happy to  
24 answer any questions.

25 CHAIRMAN PATE: Any questions, commissioners?



1 (No response.)

2 CHAIRMAN PATE: All right. Thank you, Curley.

3 MR. TRAHAN: Thank you.

4 CHAIRMAN PATE: Next is item III.A.6.

5 Enforcement.

6 Jim Blodgett, please give us the report.

7 MR. BLODGETT: Mr. Chairman, commissioners,  
8 good morning. My name is Jim Blodgett. I am the agency's  
9 director of Law Enforcement and Investigations.

10 Your Enforcement report this morning can be  
11 found on pages 14 and 15 of your materials packet.  
12 Commissioners, the enforcement report typically is a  
13 summary of the currently completed race meet activity, but  
14 due to Lone Star Park's mid-September start this year,  
15 your report this morning reflects enforcement activities  
16 for the entire 2021 fiscal year.

17 When reviewing these case activities, please be  
18 reminded that they represent only completed cases and that  
19 there are additional cases not listed that have not been  
20 fully adjudicated at this time. Reinforced by previous  
21 Commission testimony, human drug violations, contraband  
22 violations and riding infractions were the enforcement  
23 categories with the largest consistent activities  
24 throughout fiscal year 2021.

25 Possession and use of marijuana was the

1 predominant drug within the human drug violation category,  
2 and the contraband, which includes items such as needles,  
3 syringes and unlabeled medications, represented a large  
4 number of these investigations as well. Riding  
5 infractions are handled by the Board of Stewards upon  
6 witnessing a jockey's behavior during races.

7 Commissioners, rule compliance by our active  
8 racetracks is currently good, with only minimal issues  
9 identified through our compliance inspection program. The  
10 aftermath of the 2021 winter storm remains visible at  
11 Retama Park, most notably in the racing office and  
12 grandstand areas. Retama management assures the  
13 Commission staff that repairs are continuing and that the  
14 facility will meet its 2022 race schedule. All racetracks  
15 continue to work with us to resolve issues that we've  
16 identified.

17 And that concludes my Enforcement report for  
18 this morning.

19 CHAIRMAN PATE: Commissioners, do any of you  
20 have questions?

21 (No response.)

22 CHAIRMAN PATE: Thank you, Jim.

23 The next item is item III.B. Discussion and  
24 possible action to approve the Commission's operating  
25 budget for fiscal year 2022.

1 Curley, will you please present the operating  
2 budget?

3 MR. TRAHAN: Commissioners, page 17 and 18 of  
4 your meeting packet contain the proposed fiscal year 2022  
5 operating budget that the agency is submitting for your  
6 consideration and approval.

7 The proposed operating budget totals \$4.71  
8 million. This amount includes approximately \$3.71 million  
9 for the cost of regulatory operations and approximately \$1  
10 million for unappropriated expenses which covers the cost  
11 of employee and retiree benefits. This proposed operating  
12 budget does not include the estimated \$3.13 million  
13 associated with the Texas-bred Incentive Fund, which is  
14 separate from the agency's operating fund.

15 The fiscal year 2022 operating budget is  
16 estimated to support 37.5 FTEs. In addition to the  
17 remaining balances from fiscal year '21 of approximately  
18 \$750,000, new FY22 revenue collected by the agency is  
19 projected to include approximately \$2.78 million in  
20 simulcast revenue, approximately \$1.33 million in annual  
21 racetrack fees, approximately \$595,250 in occupational  
22 licensing fees, and another \$18,000 in other miscellaneous  
23 revenue.

24 I'd be happy to try to answer any questions you  
25 may have, otherwise, I would ask for your approval of the

1 agency's fiscal year 2022 operating budget.

2 CHAIRMAN PATE: Thank you, Curley.

3 Robert, has anybody signed up to speak on this  
4 matter?

5 MR. ELROD: No, sir.

6 COMMISSIONER MACH: Mr. Chairman, I move  
7 approval of the budget.

8 CHAIRMAN PATE: We have a motion.

9 COMMISSIONER MILLER: Second.

10 CHAIRMAN PATE: Motion by Commissioner Mach,  
11 second by Commissioner Miller. Any further discussion?

12 (No response.)

13 CHAIRMAN PATE: All those in favor signify by  
14 saying aye.

15 (A chorus of ayes.)

16 CHAIRMAN PATE: Any opposed?

17 (No response.)

18 CHAIRMAN PATE: Motion carries.

19 Item IV. Employment Matters has been previously  
20 handled.

21 Moving on next is agenda item V. Discussion and  
22 possible action to adopt amendments to 16 TAC 303.102,  
23 Greyhound Rules, as proposed in the August 13, 2021, issue  
24 of the *Texas Register*.

25 Virginia Fields will present this item.

1 MS. FIELDS: Thank you, Commissioner. For the  
2 record, Virginia Fields.

3 The Texas Greyhound Association requested an  
4 amendment in the process of registering a greyhound as  
5 Texas-bred. Devon Bijansky worked with the TGA on the  
6 proposed rule that begins on page 23 of your materials,  
7 which provides that TGA, rather than the National  
8 Greyhound Association, will be responsible for the  
9 registration of Texas-bred greyhounds.

10 The proposed rule was discussed at the last  
11 Commission meeting July 27, and thereafter was filed with  
12 the *Texas Register* on August 13 for public comment. There  
13 being no public comment, the matter is before you today  
14 for adoption.

15 CHAIRMAN PATE: Thank you, Virginia.

16 Robert, has anyone signed to speak on this  
17 matter?

18 MR. ELROD: No, sir.

19 CHAIRMAN PATE: All right. Commissioners, do  
20 any of you have questions?

21 (No response.)

22 CHAIRMAN PATE: If there's no further  
23 discussion, I'll entertain a motion to adopt the  
24 amendments to Section 303.102.

25 COMMISSIONER McNABB: So moved.

1 COMMISSIONER MACH: Second.

2 CHAIRMAN PATE: Motion made by Commissioner  
3 McNabb, second by Commissioner Mach. Any further  
4 discussion?

5 (No response.)

6 CHAIRMAN PATE: All those in favor signify by  
7 saying aye.

8 (A chorus of ayes.)

9 CHAIRMAN PATE: Any opposed?

10 (No response.)

11 CHAIRMAN PATE: Motion carries.

12 The next item on the agenda is item VI.A.  
13 Discussion and possible action to allocate funds in the  
14 Horse Industry Escrow Account to state horse breed  
15 registries for events to further the horse industry under  
16 16 TAC Chapter 303, Subchapter G.

17 Virginia Fields will present this item.

18 MS. FIELDS: Thank you, Commissioner. Again  
19 for the record, Virginia Fields.

20 The materials for this item are contained in  
21 your packet beginning at page 25. There are seven  
22 applications or requests, all from the Texas Thoroughbred  
23 Association, for a total requested amount of \$3,648,720.

24 I'm happy to outline each of those specific  
25 seven applications before you today recommended for

1 allocation, or the commissioners may move forward with all  
2 seven proposals in one motion, as you see fit.

3 CHAIRMAN PATE: Without objection, we'll move  
4 forward with all seven.

5 MS. FIELDS: Seeing no objection, we would ask  
6 that you motion for allocation for all the proposals.

7 CHAIRMAN PATE: Robert, has anybody signed up  
8 to speak on these matters?

9 MR. ELROD: No, sir.

10 CHAIRMAN PATE: All right. Commissioners, do  
11 any of you have any further questions?

12 (No response.)

13 CHAIRMAN PATE: If not, if there is no further  
14 discussion, I'll entertain a motion regarding the  
15 allocation of funds in the Horse Industry Escrow Account  
16 to state horse breed registries for events to further the  
17 horse industry under 16 TAC Chapter 303, Subchapter G.

18 COMMISSIONER MILLER: So moved.

19 COMMISSIONER MACH: Second.

20 CHAIRMAN PATE: All right. I understand that  
21 motion would be approving all seven. Is that correct,  
22 Commissioner Miller?

23 COMMISSIONER MILLER: Yes.

24 CHAIRMAN PATE: And second by Commissioner  
25 Mach. Any further discussion?

1 (No response.)

2 CHAIRMAN PATE: All those in favor signify by  
3 saying aye.

4 (A chorus of ayes.)

5 CHAIRMAN PATE: Any opposed?

6 (No response.)

7 CHAIRMAN PATE: Motion carries.

8 The next item is agenda item VI.B. Discussion  
9 and possible action on distribution of purse funds from  
10 the Horse Industry Escrow Account among the various breeds  
11 of horses under Commission Rule 303.311.

12 Curley Trahan will present this item.

13 MR. TRAHAN: Commissioners, the distribution of  
14 funds collected in the Horse Industry Escrow Account is  
15 covered in Commission Rule 303.311. The funds set aside  
16 for the Horse Industry Escrow Account are derived from two  
17 sources.

18 The first source of funds results from  
19 simulcast wagering on interstate horse racing at greyhound  
20 tracks in the state. The second source of funds  
21 originates via a tax imposed from the sale, storage or use  
22 of horse feed, horse supplements and horse tack. The  
23 second source is a direct result of passage of House Bill  
24 2463 during the 86th Legislative Regular Session.

25 This same bill requires the maximum amount for



1 purses allowed from the Horse Industry Escrow Account to  
2 be set at 70 percent. The allocation of this 70 percent  
3 is what is being proposed in this agenda item. The rule  
4 states that at least once a year, the Commission shall  
5 distribute all funds accrued for purses in the escrow  
6 account to the horse racetracks.

7 The racetrack associations are required to  
8 recommend the percentages by which the distribution of  
9 funds will be divided among the various breeds of horses.

10 The Commission must determine: first, the allocation  
11 among the tracks of the escrow purse funds; and second,  
12 the percentages to be divided among the various breeds at  
13 each track of their allocated portion. The Commission may  
14 look to criteria listed in Subsection (c) of this section  
15 of the rules when evaluating the racetrack associations  
16 recommendations.

17 In lieu of this process, if the racetrack  
18 associations and all the official horse industry  
19 organizations reach an agreement, that signed agreement  
20 may be submitted to the Commission for approval as long as  
21 the agreement meets two criteria: first, the agreement  
22 must delineate the percentages by which the purse funds in  
23 the Horse Industry Escrow Account received by the  
24 associations will be divided amongst the various breeds of  
25 horses; secondly, the agreement must be signed by all

1 organizations recognized by the Commission or in the Act  
2 as representatives of horse owners, trainers and/or  
3 breeders.

4 Subsequent to the meeting material being  
5 compiled and printed, staff has received a fully executed  
6 copy of an industry-wide agreement on the allocations of  
7 purse funds from the Horse Industry Escrow Account to each  
8 of the Texas horse racetracks and the division of those  
9 funds among the various breeds of horses at each track.  
10 The agreement is identical to the one in the meeting  
11 materials found on pages 65 through 72, however, the one  
12 in the meeting materials is not signed by all parties,  
13 while the one staff has last received is signed by all  
14 parties.

15 The agreement is for calendar years 2022 and  
16 2023, and is signed by representatives of each of the four  
17 Texas horse racetracks and the four Texas breed registries  
18 as recognized in the Act. The agreement is also signed by  
19 representatives to the Texas horse owners and trainers.  
20 This agreement maintains the current allocations and  
21 distributions that were approved by the Commission last  
22 year.

23 Since all interested parties are in agreement  
24 with the proposed allocation, and having met the  
25 requirements of the rule, staff would recommend approval

1 of the distribution of purse funds from the Horse Industry  
2 Escrow Account for calendar years 2022 and 2023, as  
3 proposed in the industry submitted industry-wide signed  
4 agreement.

5 I'd be happy to answer any questions.

6 CHAIRMAN PATE: Thank you, Curley.

7 Robert, I have three cards with respect to item  
8 VI and I don't know whether they want to respond to this.

9 First, Mary Ruyle will be recognized for three  
10 minutes.

11 MS. RUYLE: Actually, Commissioner, that was  
12 for the prior item.

13 CHAIRMAN PATE: I'm sorry.

14 MS. RUYLE: That's okay.

15 CHAIRMAN PATE: Are we good?

16 MS. RUYLE: We're good.

17 CHAIRMAN PATE: Okay. How about the other,  
18 Dwight and Corey Johnson? Come on up, Dwight.

19 MR. BERUBE: Thank you, Mr. Chairman. Good  
20 afternoon, commissioners and staff. Dwight Berube, vice  
21 president and general manager of Sam Houston Race Park.

22 One of the most difficult things I do each year  
23 is apply for racing dates and try to determine how many  
24 dates to apply for. One of the things I need to look at  
25 is how much purse money I expect to have to work with in

1 our purse funds, and in order to do that I have to project  
2 what I think we'll do in live handle and export handle on  
3 those live dates. I project what I think we'll do in  
4 simulcasting and what earnings we'll add to the purse  
5 account through simulcasting, and also, the real lion's  
6 share of it comes from the Horse Industry Escrow Account.

7 So I'm here to respectfully request two things  
8 from you today. One is to keep the allocation the same  
9 for 2022 as it's been the last two years, because that's  
10 the assumption I went with when I applied for the dates  
11 for 2022. And Sam Houston's Thoroughbred Meet begins on  
12 January 26 and we've got a condition book out already with  
13 purses established based on those numbers.

14 The other thing that I request is that this  
15 item be heard much earlier in the year, perhaps in March  
16 or April, because it would be very helpful to all of the  
17 tracks if this was already decided before we apply for  
18 race dates. Because this is such an important item, we  
19 really need to know what each track is going to be getting  
20 from the Horse Industry Escrow Account before we apply for  
21 race dates.

22 Thank you very much, and I'm available for any  
23 questions.

24 CHAIRMAN PATE: I do have a question, Dwight.  
25 Last year, because of the manner in which y'all ran your

1 races and then the other tracks ran theirs, there was a  
2 disproportionate payment of funds to y'all first to  
3 recognize y'all were earlier in the year and then other  
4 monies. Is that all worked out too?

5 MR. BERUBE: Yes, that's been resolved.

6 CHAIRMAN PATE: Okay. So we're all good on  
7 that.

8 MR. BERUBE: Yes.

9 CHAIRMAN PATE: Okay. So what date would you  
10 suggest -- we're going to be considering today for 2022  
11 through 2023. Correct?

12 MR. BERUBE: No. Just for 2022 up until, I  
13 believe, August 31 of 2022.

14 CHAIRMAN PATE: I'm sorry, Curley, go ahead.

15 MR. TRAHAN: The signed agreement that staff  
16 has received is for calendar years 2022 and 2023.

17 CHAIRMAN PATE: Okay. So apparently the  
18 agreement that y'all signed is through 2023, but I guess  
19 it would be useful if you would get with staff and get  
20 with Connie Estes, and let her know -- I'm talking about a  
21 year and a half, whatever it needs to be. And we'll be  
22 more than happy to comply with that request to bring it up  
23 and make sure y'all get that agreement in place so you can  
24 do your proper planning.

25 MR. BERUBE: Okay. Thank you very much.

1 CHAIRMAN PATE: Are there any other questions?

2 (No response.)

3 CHAIRMAN PATE: I also had another person to  
4 speak, Corey Johnson.

5 MR. JOHNSON: We're good.

6 CHAIRMAN PATE: All right. Thank you.

7 Commissioners, if there's no further  
8 discussion, I'd entertain a motion on the distribution of  
9 purse funds from the Horse Industry Escrow Account among  
10 the various breeds of horses under Commission Rule 303.311  
11 to honor the agreement entered by all the interested  
12 parties for calendar years 2022 and 2023.

13 COMMISSIONER McNABB: So moved.

14 COMMISSIONER MACH: Second.

15 CHAIRMAN PATE: McNabb moved, second by Mach.  
16 Any further discussion?

17 (No response.)

18 CHAIRMAN PATE: Hearing none, all those in  
19 favor say aye.

20 (A chorus of ayes.)

21 CHAIRMAN PATE: Any opposed?

22 (No response.)

23 CHAIRMAN PATE: Motion carries.

24 The next item on the agenda is item VII.A.

25 Discussion and possible action on application by inactive

1 track license holders for license renewal under 16 TAC  
2 309.52. We'll be considering whether to remove the  
3 racetrack license for Manor Downs, Laredo Downs, and Valle  
4 de Los Tesoros.

5 Virginia, will you please present this item?

6 MS. FIELDS: Yes, Commissioner. Again for the  
7 record, Virginia Fields.

8 Commissioners, the completed applications for  
9 renewal of the inactive license holders are part of your  
10 meeting materials beginning on page 77. For the record,  
11 the required fees with the applications have been  
12 submitted.

13 Section 2025.105 of the Racing Act requires  
14 that the Commission conduct and review the inactive  
15 racetrack licenses. At the conclusion of your review, you  
16 can either renew the license as inactive, re-designate it  
17 as active, or refer it to the State Office of  
18 Administrative Hearings for non-renewal proceedings.

19 It should be pointed out that at the Commission  
20 meeting in December of 2020, that two of the licenses  
21 still maintain the one factor for non-renewal under  
22 Section 309.52(f), which is that both Manor Downs and  
23 Laredo Downs do not currently have either ownership or a  
24 leasehold interest in the property where the license is  
25 designated to operate.

1           There are no other factors for non-renewal  
2       proceedings, and it should be noted that this is an option  
3       if you determine such a factor only to be not in the best  
4       interest of the industry, the public or that the  
5       association has failed to take good faith efforts to  
6       conduct live racing. After consideration of the factors  
7       that are outlined in staff's report in your materials, the  
8       decision whether to renew these three inactive licenses  
9       can be made separately as for each track or together for  
10      all applicants.

11           And commissioners, I believe that  
12      representatives of all the applicants, as well as myself,  
13      are available for any questions.

14           CHAIRMAN PATE: Is staff recommending renewal?

15           MS. FIELDS: Recommending renewal.

16           CHAIRMAN PATE: Of all three? All right.

17           Robert, has anyone signed up to speak on these  
18      items?

19           MR. ELROD: No, sir.

20           CHAIRMAN PATE: All right.

21           COMMISSIONER MACH: Actually, according to the  
22      notes, there is no recommendation.

23           MS. FIELDS: No recommendation. That's right.  
24      I apologize.

25           CHAIRMAN PATE: No recommendation.



1 MS. FIELDS: No specific. That would be up to  
2 the determination of the commissioners based on the  
3 factors.

4 CHAIRMAN PATE: All right.

5 COMMISSIONER MACH: Is someone able to provide  
6 historical context for how long they've had these  
7 licenses? I know there's some context already in our  
8 notes, but when were the licenses issued originally?

9 MS. FIELDS: The representatives might be  
10 better for this. I might be interjecting where I  
11 shouldn't, but Manor Downs at one point was operating for  
12 quite a long period of time but at a different location,  
13 and that location is no longer feasible, as I understand  
14 it.

15 Now, Laredo Downs as well, as in your  
16 materials, has an option, but I'm not sure how long it  
17 actually operated before it went inactive. If there's  
18 anyone that wants to speak to that.

19 CHAIRMAN PATE: Do we have anybody who wants to  
20 speak to these matters?

21 (No response.)

22 CHAIRMAN PATE: All right. Is there a motion  
23 to renew the inactive license of Manor Downs, Laredo  
24 Downs, and Valle de Los Tesoros?

25 COMMISSIONER McNABB: I so move.

1                   CHAIRMAN PATE: Motion made by Commissioner  
2 McNabb. Second?

3                   COMMISSIONER CONTRERAS: Second.

4                   CHAIRMAN PATE: Second by Commissioner  
5 Contreras. Any discussion?

6                   COMMISSIONER MILLER: Yeah, I've got some.

7                   CHAIRMAN PATE: Yes, sir.

8                   COMMISSIONER MILLER: So we're going to  
9 eliminate these licenses, is that what we're about to do?

10                  CHAIRMAN PATE: No. We're going to renew them.

11                  COMMISSIONER McNABB: No. We're going to renew  
12 them.

13                  COMMISSIONER MILLER: Oh, renew them. I  
14 misunderstood you then. Okay. So keep them active.

15                  MS. FIELDS: Inactive.

16                  CHAIRMAN PATE: They're inactive.

17                  COMMISSIONER MILLER: Active in the inactive.

18                  CHAIRMAN PATE: Correct.

19                  COMMISSIONER CONTRERAS: Can I ask a  
20 clarification? It looks like in some of the materials  
21 that some of the tracks are working towards a solution to  
22 get their tracks up and running, right?

23                  MS. FIELDS: Yes. It was contained in part of  
24 the materials, yes, ma'am, that was. I think with the  
25 COVID pandemic it has kind of delayed some of those

1 efforts, but those efforts continue.

2 CHAIRMAN PATE: All right. Any further  
3 discussion?

4 (No response.)

5 CHAIRMAN PATE: All those in favor signify by  
6 saying aye.

7 (A chorus of ayes.)

8 CHAIRMAN PATE: Any opposed?

9 (No response.)

10 CHAIRMAN PATE: Hearing none, motion carries.

11 Now to agenda item VII.B. Discussion and  
12 possible action to discuss the ownership and management  
13 review of Lone Star Park under 16 TAC 309.53.

14 Virginia, will you please present this item?

15 MS. FIELDS: Yes. Thank you, Commissioner.

16 An association that's holding a racetrack  
17 license designated as active operating or active other is  
18 subject to an ownership and management review every five  
19 years under the rules. The information on this agenda  
20 item is in your meeting materials again beginning at page  
21 84.

22 The executive secretary's summary is on pages  
23 86 through 89, and it's regarding the current ownership,  
24 management, any background investigations, the security  
25 plan, totalisator, management, and concession contracts,

1 as well as a financial review, Commission inspections and  
2 investigations. Management has timely addressed all  
3 inspection issues and there have been no investigations or  
4 administrative penalties involving Lone Star Park.

5 This agenda item is before you today,  
6 commissioners, to approve the ownership and management  
7 review of Lone Star Park and to schedule the next review  
8 of Lone Star Park for calendar year 2026.

9 CHAIRMAN PATE: Thank you, Virginia.

10 Robert, has anyone signed up to speak on this  
11 item?

12 MR. ELROD: No, sir.

13 CHAIRMAN PATE: All right. Commissioners, do  
14 you have any questions?

15 (No response.)

16 CHAIRMAN PATE: Is there a motion to approve  
17 the ownership and management review of Lone Star Park  
18 under 16 TAC 309.53?

19 COMMISSIONER MACH: So moved.

20 CHAIRMAN PATE: Motion.

21 COMMISSIONER McNABB: I second.

22 CHAIRMAN PATE: By McNabb. Thank you.

23 Any discussion?

24 (No response.)

25 CHAIRMAN PATE: Hearing none, all those in

1 favor please signify by saying aye.

2 (A chorus of ayes.)

3 CHAIRMAN PATE: Any opposed?

4 (No response.)

5 CHAIRMAN PATE: Motion carries.

6 Now to agenda item VII.C. Discussion and  
7 possible action to approve the request for approval by  
8 Lone Star Park for a change in their management committee.

9 Virginia, will you please present this item?

10 MS. FIELDS: Yes. Thank you, Chairman Pate.

11 From your materials, commissioners, the  
12 outgoing member of Global Gaming LSP, LLC, or dba Lone  
13 Star Park at Grand Prairie, is Roy Corby. The new  
14 proposed member is Trent Roberts, with no ownership  
15 interest in the association.

16 Their proposed date of change in their document  
17 is October 1, but that change of any members in the  
18 management committee cannot take effect prior to  
19 Commission approval. So the agenda item is submitted for  
20 your approval to this change in management committee,  
21 effective today, from Roy Corby to Trent Roberts.

22 CHAIRMAN PATE: Thank you, Virginia.

23 Robert, has anyone signed up to speak on this  
24 item?

25 MR. ELROD: No, sir.

1 CHAIRMAN PATE: All right. Commissioners, do  
2 you have any questions?

3 COMMISSIONER MACH: My notes indicate that the  
4 name is Trent Rogers.

5 MS. FIELDS: Oh, Rogers? I apologize, Mr.  
6 Rogers. He's here.

7 CHAIRMAN PATE: Thank you.  
8 Any other questions?

9 (No response.)

10 CHAIRMAN PATE: Is there a motion to approve  
11 Lone Star Park's change to their management committee?

12 COMMISSIONER MACH: I'll make that motion.

13 CHAIRMAN PATE: Thank you, Commissioner Mach.  
14 Second?

15 COMMISSIONER McNABB: I'll second.

16 CHAIRMAN PATE: Commissioner McNabb, thank you.  
17 Any discussion?

18 (No response.)

19 CHAIRMAN PATE: All right. Hearing none, all  
20 in favor please signify by saying aye.

21 (A chorus of ayes.)

22 CHAIRMAN PATE: Any opposed?

23 (No response.)

24 CHAIRMAN PATE: Hearing none, motion carries.  
25 We've previously addressed item VII.D. VII.E.

1 Discussion and possible action to allocate funds for the  
2 Texas-bred incentive program under Commission Rule  
3 321.505(b) .

4 Curley, will you please present this item?

5 MR. TRAHAN: Commissioners, a portion of the  
6 money wagered on simulcast races offered at the horse  
7 racetracks is dedicated to the Accredited Texas-bred  
8 incentive program. Commission rule 321.505(b) requires  
9 the Commission to determine the division of funds after  
10 affording each official horse breed organization an  
11 opportunity to present written information addressing the  
12 criteria listed in paragraph 2 of this subsection.

13 Instead, the breed organizations may present to  
14 the Commission an agreement in lieu of providing written  
15 information. The agreement must meet two specific  
16 requirements: first, the agreement must be signed by all  
17 the official breed registries, as designated in the Act,  
18 that participate in the program; secondly, the agreement  
19 must delineate the percentages by which the Texas-bred  
20 incentive program funds generated from simulcasting are to  
21 be divided among the various breeds of horses.

22 You will find on pages 97 and 98 of your  
23 meeting material a submitted agreement signed in multiple  
24 parts by all the participating breed registries in  
25 accordance with the rules. Included on page 96 is a

1 summary of the allocations contained in the agreement.

2 The agreement lists the established percentages  
3 by which Accredited Texas-bred program funds will be  
4 allocated among the various breeds of horses for calendar  
5 year 2022. This agreement maintains the same allocations  
6 that were approved for current year 2021 and have remained  
7 the same since 2008.

8 Since all parties have agreed to the  
9 allocations and the requirements of the rules have been  
10 met, staff recommends approval of the submitted Accredited  
11 Texas-bred incentive program breed split agreement for  
12 calendar year 2022.

13 I'm happy to answer any questions.

14 CHAIRMAN PATE: Thank you, Curley.

15 Robert, has anyone signed to speak on this  
16 item?

17 MR. ELROD: No, sir.

18 CHAIRMAN PATE: All right. Commissioners, do  
19 any of you have any questions?

20 (No response.)

21 CHAIRMAN PATE: Hearing none, is there a motion  
22 to approve the allocation of funds for the Texas-bred  
23 incentive program as requested?

24 COMMISSIONER CONTRERAS: Move.

25 CHAIRMAN PATE: Motion by Commission Contreras.



1 COMMISSIONER MILLER: Second.

2 CHAIRMAN PATE: Second by Commissioner Miller.

3 Thank you.

4 Any discussion?

5 (No response.)

6 CHAIRMAN PATE: Hearing none, all in favor  
7 please signify by saying aye.

8 (A chorus of ayes.)

9 CHAIRMAN PATE: Any opposed?

10 (No response.)

11 CHAIRMAN PATE: Hearing none, motion carries.

12 Next to agenda item VII.F. Discussion and  
13 possible action to allocate purse funds as provided under  
14 Commission Rule 321.505(a).

15 Curley, will you please present this item?

16 MR. TRAHAN: Commissioners, as with the Texas-  
17 bred incentive program in the previous agenda item, a  
18 portion of the money wagered on simulcast races in Texas  
19 is dedicated to purses at the horse racetracks.

20 Pursuant to Commission Rule 321.505(a), the  
21 racetracks must negotiate with representatives of the  
22 officially recognized organizations representing horse  
23 owners, trainers and/or breeders for the allocation of  
24 purse funds earned at each track. Racetrack management  
25 then recommends to the Commission the specific allocation

1 of simulcast purse revenue among the various breeds of  
2 horses at their respective racetracks.

3 The Commission may look to criteria detailed in  
4 subsection 321.505(a)(4) when evaluating the racetracks'  
5 recommendations, however, if the racetracks and all the  
6 official horse industry organizations reach a signed  
7 agreement, that agreement may then be presented to the  
8 Commission for approval.

9 Commissioners, beginning on page 103 of the  
10 meeting materials and continuing through page 111 is a  
11 two-year industry-wide agreement in multiple parts between  
12 all four Texas horse racetracks and the four recognized  
13 breed registries, along with the Texas Horsemen's  
14 Association. This agreement will maintain the current  
15 2021 approved simulcast purse breed splits.

16 Since all interested parties have indicated  
17 their support by signing the agreement, staff recommends  
18 approval of the simulcast purse fund agreement for  
19 calendar years 2022 and 2023.

20 I'd be happy to answer any questions.

21 CHAIRMAN PATE: Thank you, Curley.

22 Robert, has anyone signed up to speak on this  
23 item?

24 MR. ELROD: No, sir.

25 CHAIRMAN PATE: All right. Commissioners, any

1 of you have any questions?

2 (No response.)

3 CHAIRMAN PATE: Hearing none, is there a motion  
4 to approve the allocation of purse funds as requested?

5 COMMISSIONER MACH: So moved.

6 CHAIRMAN PATE: Motion by Commissioner Mach.

7 COMMISSIONER McNABB: Second.

8 CHAIRMAN PATE: By Commissioner McNabb. Any  
9 discussion?

10 (No response.)

11 CHAIRMAN PATE: Hearing none, all in favor  
12 please signify by saying aye.

13 (A chorus of ayes.)

14 CHAIRMAN PATE: Any opposed?

15 (No response.)

16 CHAIRMAN PATE: Hearing none, motion carries.

17 No further executive session.

18 The next meeting is scheduled for Wednesday,  
19 December 8. And I want to thank Commissioner Mach for  
20 accommodating us with the DPS schedule so we could  
21 regularly schedule our meetings in even months on the  
22 second Wednesday. Thank you very much.

23 COMMISSIONER MACH: Thank you for accommodating  
24 the DPS schedule.

25 CHAIRMAN PATE: The time is now 12:25 and we,

1       having concluded all business, are now adjourned. Thank  
2       you.

3                       (Whereupon, at 12:25 p.m., the meeting was  
4       adjourned.)

C E R T I F I C A T E

MEETING OF: Texas Racing Commission

LOCATION: Austin, Texas

DATE: October 13, 2021

I do hereby certify that the foregoing pages,  
numbers 1 through 69, inclusive, are the true, accurate,  
and complete transcript prepared from the verbal recording  
made by electronic recording by Nancy H. King before the  
Texas Racing Commission.

DATE: October 25, 2021

/s/Nancy H. King  
(Transcriber)

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